
From: Piro, Peter (DPH)
Sent: Thursday, January 12, 2012 9:58 AM
To: O'Brien, Elisabeth (DPH); Salemi, Charles (DPH)
Cc: Nassif, Julianne (DPH); Lawler, Michael (DPH); Saunders, Della (DPH)
Subject: RE: Marijuana

Betsy,

Without routine lab meetings, minutes or memos concerning changes with law, their enforcement or lab testing procedures, the trickle down theory of disseminating information can be dangerous. An individual may be absent when the information is passed on or it could lead to lab myths being generated. How else can one explain why certain chemists continued to use the statistical spreadsheet for trafficking after the hypergeometric was introduced while some didn't? I believe that was a breakdown in communication after our original lab meeting. Certain individuals, other than the lab supervisor, were passing on their interpretation.

While I understand the police can charge the defendant with distribution, the 1 oz threshold also makes it criminal as well, hence my initial concern at threshold levels. That concept was also reinforced at the original lab meeting. The police may also have a weak case for distribution and I'm fine if we don't care since we have to choose our battles. The extrapolated (not estimated) net weight reference is what I coined for having the police do the extrapolation for us and I have used it when my extrapolated or estimated net weight was over 1 oz. My attempt to discuss this matter at the technical review meeting was met with hostility due to a breakdown in properly disseminating information or it was a hostile crowd. Thanks for the information you provided about resubmitted samples.

From: O'Brien, Elisabeth (DPH)
Sent: Wednesday, January 11, 2012 2:54 PM
To: Salemi, Charles (DPH); Piro, Peter (DPH)
Cc: Nassif, Julianne (DPH); Lawler, Michael (DPH); Saunders, Della (DPH)
Subject: RE: Marijuana

Peter,

I additionally would like to make a distinction between marijuana possession cases and trafficking cases in cocaine, heroin and marijuana. There are MANDATORY MINIMUM SENTENCES beginning at 14 grams for coke/heroin and 50 POUNDS for marijuana. That is why those cases require greater attention to weight.

No such mandatory sentences exist for 28 grams of Class D marijuana so we don't need to treat those samples like trafficking cases which is what you are doing.

Also, we do not use the extrapolated net weight method for marijuana and haven't for at least two years. The weight that gets reported is only the net weight of the bags tested. We went to this method to avoid the situation you found yourself in.

Finally, of the samples that we have had in the past that contain many bags, when the chemist has only analyzed 10% or square root of the bags and only reported that net weight, none of those samples have been resubmitted to have more bags weighed.

Hope this clears things up a bit.

ELO

From: Salemi, Charles (DPH)
Sent: Wednesday, January 11, 2012 1:25 PM

To: Piro, Peter (DPH)
Cc: Nassif, Julianne (DPH); O'Brien, Elisabeth (DPH); Lawler, Michael (DPH); Saunders, Della (DPH)
Subject: RE: Marijuana

Peter, Originally, when the marijuana law changed, we said we would test enough bags to insure a reported net weight of greater than 28 grams. However, after several months of doing this, we had a lab meeting and the chemists said that this was to time consuming. Betsy said that the feedback from the Police was that if there were multiple bags they were going to charge people with intent to distribute, no matter if the weight was greater or less than 28 grams. So at the lab meeting we said that for VM cases with many small bags (say 20-30), we would test the square root or ten percent and report the net weight of the several bags tested. No estimated net weight. I also said if any chemist had a problem with this, I would sign off on the card to the reduced sampling. If I am incorrect, we can address and correct. Thanks CBS

From: Piro, Peter (DPH)
Sent: Wednesday, January 11, 2012 8:47 AM
To: Salemi, Charles (DPH); Nassif, Julianne (DPH)
Subject: Marijuana

Hi Chuck and Julie,

This is the only memo I have concerning marijuana testing. If an additional memo exists I would greatly appreciate a copy. I've used the extrapolated net weight method if the net weight was clearly over 28 grams. At 28 grams my best judgment for the case we discussed at the meeting was to weight and test all 21 bags. It didn't seem that unreasonable to me. (Painful but not unreasonable)

If we have time to address the marijuana matter I could use clarification on a few issues.

1. If the extrapolated net weight method is to be used for all multiple (> than 10) net weight situations that are at or above the threshold level.
2. The upper limit of testing the lab views to be reasonable if all the specimens are similar
3. When more than 10% of specimens are tested for non-trafficking distribution
4. If we still feel a GC is only necessary for samples over one pound

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-----Original Message-----

From: DPH-ITS, Scanner (DPH) [mailto:itsscanner@massmail.state.ma.us]
Sent: Wednesday, January 11, 2012 7:22 AM
To: Piro, Peter (DPH)
Subject:

This E-mail was sent from "DPH-SLI-361-Scanner" (Aficio MP 3350B).

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